

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CARL BOESING,)	
)	
Petitioner,)	
)	
v.)	No. 4:02-CV-888 CAS
)	
AL LUEBBERS ¹ ,)	
)	
Respondent.)	

ORDER

This matter is before the Court on state prisoner Carl Boesing's action pursuant to 28 U.S.C. § 2254. This case was referred to United States Magistrate Judge Frederick R. Buckles for report and recommendation on all dispositive matters and for final disposition on all non-dispositive matters, pursuant to 28 U.S.C. § 636(b).

Boesing stated three grounds in support of habeas relief: (1) ineffective assistance of counsel because trial counsel failed to investigate, contact, and depose alibi witnesses; (2) ineffective assistance of counsel because trial counsel represented both petitioner and a co-defendant; and (3) ineffective assistance of counsel because trial counsel failed to impeach testimony of a state witness regarding the physical characteristics of the perpetrator. On May 4, 2005, Judge Buckles filed a Report and Recommendation of United States Magistrate Judge, which recommended that Boesing's petition for writ of habeas corpus be denied.

¹Petitioner is currently incarcerated at the Farmington Correctional Center ("FCC") in Farmington, Missouri. Pursuant to Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts, the Court will order the Clerk of Court to substitute Al Luebbbers, the FCC Superintendent, in place of Gene Stubblefield as the proper party respondent.

Petitioner filed objections to the Report and Recommendation, asserting that the failure of trial counsel to interview potential alibi witnesses was not sound trial strategy and may have changed the outcome of his case. The Court has carefully reviewed petitioner's objections and the entire record of this matter. Following de novo review, the Court concurs in the recommendation of the Magistrate Judge. Petitioner's objections are overruled.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge is **sustained, adopted and incorporated** herein. [Doc. 15]

IT IS FURTHER ORDERED that Al Luebbbers, Superintendent of the Farmington Correctional Center in Farmington, Missouri is **substituted** as the proper party respondent. The Clerk of Court shall substitute Al Luebbbers's name in the court record.

IT IS FURTHER ORDERED that Boesing's Petition for Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254 is **DENIED**. [Doc. 5]

IT IS FURTHER ORDERED that this matter is **DISMISSED**, with no further action to take place herein.

An appropriate judgment will accompany this order.

A handwritten signature in black ink, appearing to read "Charles A. Shaw", written over a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of May, 2005.